State of New Hampshire

OFFICE OF ATTORNEY-GENERAL

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in opinion

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September 1, 1954

William H. Riley, Commissioner
New Hampshire Department of Labor
15 Pleasant Street
Concord, New Hampshire

Dear Mr. Riley:

In your letter of August 24 you state that it has been your practice to require that all caddies secure employment certificates, and you asked whether this was required by the statute. Section 24 of Revised Laws, chapter 137, provides that any child engaged in connection with any place or establishment named in section 18 shall procure an employment certificate. Before the 1951 amendment (c. 94, Laws 1951) section 18 contained an enumeration of certain classes of employment where children under fourteen could not work. As amended by chapter 94 of the Laws of 1951 the proscription against employing children under the age of fourteen was extended to include all but farm and domestic labor. It would seem, therefore, that your present procedure requiring employment certificates of caddies is correct.

The statute does not, however, make it absolutely clear whether such employment certificates are required. In fact the provisions of the child labor law are ambiguous in quite a few respects, and it would appear that this matter should be brought to the attention of the Legislature. I will be glad to work with you in attempting to clear up some of the confusion which exists if you wish to present suggested amendments to the Legislature.

You also raised the question of whether a caddy is an employee of a hotel which permits minors to work on the premises. It is impossible to give a blanket answer to this question. Each situation must be considered upon its own facts. In some instances the courts have found that a caddy, under the Workmen's Compensation Act, is an employee of the country club. On other facts an employer-employee relationship has been found to exist between the caddy and

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the golfer employing him. As previously stated, the facts of the particular situation must be known and evaluated before an answer can be given.

You also asked whether a minor working for a commercial apple grower, picking apples, is engaged in farm labor within the meaning of section 18 of Revised Laws, chapter 137 (as amended 1951, c. 94). It is the opinion of this office that picking apples is farm labor within the meaning of said section. See Hammons v. Franzblau, 331 Mich 572, 50 N.W.(2d) 151.

Very truly yours,

Elmer T. Bourque
Law Assistant

ETB/aml